IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 17291 of 2004

Between:
The Indian Federation of Port and Dock Workers and Visakhapatnam Port Pensioners Welfare Association, Regd.No.5/615/2001, rep., by its General Secretary K.Prabhakar Rao, s/o K.Samba Murthy, aged 53 years, Retired employee in Visakhapatnam Port Trust, Visakhapatnam.

... PETITIONER

AND

1) Ministry of Surface Transport, rep., by its Secretary to Government of India, Ministry of Surface Transport, Labour Division, New Delhi.
2) The Chairman, Visakhapatnam Port Trust, Visakhapatnam.
3) The Financial Advisor & Chief Accounts Officer, Visakhapatnam Port Trust, Accounts Department, Visakhapatnam.
4) The Deputy Chairman, Dock Labour Board, Visakhapatnam.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue of writ order or direction more particularly a writ in the nature of mandamus under Article 226 of the Constitution of India declaring the action of the 1st respondent in not converting from point system into percentage system and not even rectifying dropping pension even after lapse of 7 years as illegal improper and arbitrary and to consequently modify the existing system in calculating the pension to the retired employees, who were retired from 01-01-1997 onwards and also they are entitled to the pension arrears of personal pension and to pass such other order or orders as this Court deems fit and proper.

Counsel for the Petitioner: Smt.A.PADMA

Counsel for the Respondent No.1: Mr.ARAJASHEKAR REDDY

(Senior SC FOR CG)

Counsel for Respondent Nos.2 to 4: Mr.P. Sriraghuram, Standing Counsel for Port Trust.

The Court at the admission stage made the following:

Oral Order:

The petitioner is a federation of Port and Dock Workers and Visakhapatnam Port Beneficiaries Welfare Association representing the workers who retired from service. The petitioner approached this Court seeking a declaration that the action of the first respondent in not converting the price index point to percentage system to the workers who retired after 1-1-1997 leading to monetary loss as illegal and arbitrary. The petitioner submits that as per the methodology provided in the wage settlement the pension in respect of persons who retired prior to 1-1-1997 was consolidated with D.A. taking on percentage basis from AICPI 607 to 1708 points whereas in respect of pensioners who retired on or after 1-1-1998 the variable D.A. from AICPI 607 to 1099 points were included in the revision of pay effective from 1-1-1993 on point rate basis. Therefore, it resulted in drop in pension for those who retired on or after 1-1-1997 in comparison with the pension of the equivalent officials who retired prior to 1-1-1997. The grievance of the petitioner is that the respondents 2 to 4 instead of adopting the percentage system, are taking the point rate system, therefore, the protection given by the first respondent is not being extended to the petitioner association, thus, leading to loss in the pension to an extent of Rs.500/- to each member of the petitioner association. The petitioner submitted that the petitioner made representations to

the first respondent on 18-8-2004 and 17-9-2004 to correct the discrepancy and to recalculate the pension according to the existing rules, but those representations are pending consideration before the respondent No.1. The petitioner, therefore, seeks a direction to the first respondent to consider the said representations and to pass appropriate orders on merits.

Having regard to the circumstances explained by the petitioner, the first respondent is directed to pass appropriate orders on the representations of the petitioner dated 18-8-2004 and 17-9-2004 regarding the claim for making correct calculation of the pension and pass appropriate orders according to the existing rules within three months from the date of receipt of this order. The writ petition is accordingly disposed of.

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(Dr.G. Yethirajulu, J)

24th September 2004

Note:
Issue C.C. in three days.
(By order)

svs

To
1) The Secretary to Government of India, Ministry of Surface Transport, Labour Division, New Delhi.
2) The Chairman, Visakhapatnam Port Trust, Visakhapatnam.
3) The Financial Advisor & Chief Accounts Officer, Visakhapatnam Port Trust, Accounts Department, Visakhapatnam.
4) The Deputy Chairman, Dock Labour Board, Visakhapatnam.
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